

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

**IBSA SHAYMO and
HAWI MUHAMMED,**

Plaintiffs,

vs.

No. 2:21-cv-153

**CHANDLER PARKASH, ARKTEK XPRESS, LTD.,
ABAJEBEL KEREM and AMERICAN
TRANSPORTATION, LLC**

Defendants.

NOTICE OF REMOVAL OF CIVIL ACTION

TO: Stanley A. Davis
5214 Maryland Way, Suite 309
Brentwood, TN 37027
standavislaw@gmail.com

The removing Defendant, Arktek Express, Ltd. pursuant to 28 U.S.C. §1332 (a) (2), 1441 and 1446, and by and through counsel of record, Todd Murrah and Glassman, Wyatt, Tuttle & Cox, P.C., hereby files its Notice that this matter has been removed from the Circuit Court of Greene County, Tennessee, to the United States District Court for the Eastern District of Tennessee, Northeastern Division, and as basis for said removal would show as follows:

1. This matter was originally filed in the Circuit Court of Greene County, Tennessee, on the 3rd day of August, 2021, under Docket No. CC21cv253. A copy of the original Complaint filed in the Circuit Court of Greene County, Tennessee, is attached to this Notice of Removal as Exhibit "A".

2. Plaintiffs are presently, and were at the time the Complaint was filed, resident citizens of Davidson County, Tennessee.
3. Defendant, Chandler Parkash, is currently, and was at the time the Complaint was filed a resident citizen of Canada, residing in Surrey, British Columbia, Canada.
4. Defendant, Arktek Express, Ltd. is presently, and was at the time the Complaint was filed, a Canadian company, organized under the laws of Canada, with its principal place of business being in Surrey, British Columbia, Canada.
5. The Defendant, American Transportation, LLC, is upon information and belief, a South Carolina limited liability company with its principal place of business in Myrtle Beach South Carolina. Removing Defendant does not currently have information as to the members of the LLC, but upon information and belief, the members are resident citizens of South Carolina. Further, upon information and belief Said Defendant has not been served with the Summons and Complaint, and thus its consent to removal is not required.
6. The Defendant, Kerem Abajebel, (named as Abajebel Kerem), upon information and belief, is currently, and was at the time the Complaint was filed, a resident citizen of Decatur, Dekalb County, Georgia. Upon information and belief, said Defendant has not been served with the Summons and Complaint. Said defendant is currently a plaintiff in a case arising out of this accident that is pending in this Court, Kerem Abajebel v Chander Parkash and Arktek Xpress, Ltd., Case # 2:21-cv-119-KAC-CRW. Upon information and belief, said Defendant has not been served with the Summons and Complaint, and thus his consent to removal is not required.

7. Pursuant to applicable precedent, only Defendants who have been served at the time of Removal are required to consent to removal so as to satisfy the Rule of unanimity. *Klein v. Manor Healthcare Corp.*, 19 F.3d 1433 (6th Cir.1994). As Kerem Abajebel and American Transportation, LLC have not been served (per the Circuit Court clerk of Greene County, TN), their consent to Removal is not required for the removal of this matter.
8. The Defendant Northland Insurance Co. has been served as the alleged uninsured/underinsured motorist carrier for Plaintiff and/or American Transportation, LLC. Pursuant to applicable precedent in this Court, the alleged Uninsured motorist carrier, served as required under Tennessee law in its insured's action against an alleged uninsured/underinsured motorist to recover for damages suffered in automobile accident, is not real party in interest, and thus its residency and consent to removal is irrelevant for purpose of determining a Federal District Court's diversity jurisdiction. *Collins v. Hamby*, 803 F.Supp. 1302 (E.D.Tenn.1992). Upon information and belief, Northland Insurance Company is a Minnesota corporation with its principal place of business being in St. Paul, Minnesota.
9. The Defendant, Chandler Parkash, was, served with the Complaint on September 7, 2021, and consents to and joins in this removal. The undersigned Counsel will be defending Parkash and will promptly file a Notice of Appearance as well as a Notice of Consent to Removal on his behalf.

10. The removing Defendant, Arktek Express, Ltd. was served with the Summons and Complaint on or about September 7, 2021 via personal service on its authorized agent in Canada.
11. This action is a civil action for alleged personal injuries as a result of a motor vehicle accident which occurred in Greene County, Tennessee, on September 8, 2020.
7. Removal of this action is timely filed. *See* 28 U.S.C. § 1446(b).
8. The Complaint sets forth an *ad damnum* of “\$750,000” for compensatory damages. As such, Defendant contends that the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00. Further, in accordance with 28 U.S.C. §1446(c)(2), in order to satisfy the requirements as to the amount in controversy, Defendant would show that Counsel for Plaintiffs has provided information as to the claimed medical treatment and expenses which indicates the damages alleged and the amount in controversy will exceed \$75,000.
9. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §1332(a)(2) and (c) as the lawsuit is between a U.S. citizen and resident citizens or businesses of a foreign state, Canada, as well as resident citizens of Georgia and South Carolina, and as the amount in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs.
10. Removing Defendant would further show that venue properly lies with this Court and in this Division pursuant to 28 U.S.C. §1441(a) as this case is being removed from the Circuit Court of Greene County, Tennessee.

11. As required by 28 U.S.C. § 1446(d), written notice of the filing of this Notice will be given to all parties and a true and correct copy of this Notice will be filed with the Clerk of Greene County, Tennessee, thereby effectuating removal of this action to this Court.
12. Removing Defendant would further show that this case is linked with another case that has been removed to this court, *Abajebel Kerem v. Chandler Parkash and Arktex Xpress, Ltd.* filed under Docket No 2:21-cv-119 which was removed to this Court on or about July 28, 2021. Defendant would show that this case arises out of the same motor vehicle accident as the case prior mentioned.

Respectfully submitted,

s/ Todd Murrah
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GWTC File No. 21-082Z

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of October, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

A true and correct copy of the foregoing pleading has been properly served via the Court's CM/ECF system, Email and/or United States Mail, postage prepaid upon the following:

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s/ Todd Murrah
Todd Murrah